

(Rev. 01/21) Complaint for Violation of Civil Rights (Prisoner)

## UNITED STATES DISTRICT COURT

for the

Western District of New York

24 CV 1094-V

Case No.

(to be filled in by the Clerk's Office)

Gardner, Eric, S

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

See attached

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

JURY TRIAL: Yes ☒ No ☐

## COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

## NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

(Rev. 01/21) Complaint for Violation of Civil Rights (Prisoner)

**I. The Parties to This Complaint****A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Eric S. Gardner

All other names by which  
you have been known:

ID Number 449

ID Number

Niagara County Correctional Facility

Current Institution

P.O. Box 496

Address

Lockport New York

14095

City

State

Zip Code

**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

**Defendant No. 1**

Name

Niagara County Sheriff, Michael J. Filicetti  
(Sheriff)Job or Title (*if known*)

Shield Number

Employer

Niagara County Sheriff's Department

Address

5526 Niagara Street Extension

Lockport

N.Y.

14095

City

State

Zip Code



Individual capacity



Official capacity

**Defendant No. 2**

Name

Sean Furey

Job or Title (*if known*)

Niagara County Sheriff night (Lieutenant)

Shield Number

Employer

Niagara County Sheriff's Department

Address

5526 Niagara Street Extension

Lockport

N.Y.

14095

City

State

Zip Code



Individual capacity



Official capacity

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## Defendant No. 3

Name

Mindy Brant

Job or Title (if known)

Deputy

Shield Number

Employer

Niagara County Sheriff's Department

Address

5526 Niagara Street Extension

Lockport

N.Y.

14095

City

State

Zip Code

☒ Individual capacity ☒ Official capacity

## Defendant No. 4

Name

Brian Seaman / Christine Sovolich

Job or Title (if known)

District Attorney / Assistant District Attorney

Shield Number

Employer

Niagara County District Attorney's Office

Address

175 Hawley Street

Lockport

N.Y.

14094

City

State

Zip Code

☒ Individual capacity ☒ Official capacity

## II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

## A. Are you bringing suit against (check all that apply):

☐ Federal officials (a *Bivens* claim)☒ State or local officials (a § 1983 claim)

## B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

The 4th Amendment, NY Const, art 1 § 12, NY VTL 1194, NYCPL 690.36, 690.40 (b)

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

Defendant No. 5

Caroline Wojtaszek  
Niagara County Courthouse  
175 Hawley Street  
Lockport, N.Y. 14094

☒ Individual capacity ☒ Official Capacity

Defendant No. 6

ECMC Hospital  
462 Grider Street, Buffalo N.Y. 14215

Defendant No. 7

Mary Bridget Reilly  
ECMC Hospital  
462 Grider Street  
Buffalo, N.Y. 14215

Defendant No. 8

Emilee Russell  
ECMC Hospital  
462 Grider Street  
Buffalo, N.Y. 14215



Defendant No. 9

Maria C. Kaisler  
ECMC Hospital  
462 Grider Street  
Buffalo, N.Y. 14215

II. Basis for Jurisdiction on page 4 of 11

Section D. Judge Caroline J. Wojtaszek granted a Court Order under VTL 1194(3)(d)(4) but failed to perform her duties to insure what was read was accurate. Judge Wojtaszek departed from the regularity of the warrant process.

Niagara County Sheriff, Michael J. Filicetti failed to employ lawfully diligent Deputies. Deputy Mindy Brant and her Supervisor Lieutenant Sean Furey both failed to produce, view, or have in hand a valid Court Order before directing ECMC medical staff to draw my blood and leave the hospital with it.

Niagara County Sheriff, Lieutenant Sean Furey who had 23 years experience directed his Deputy Mindy Brant to instruct ECMC medical staff to draw my blood though Brant did not have a Court Order in her possession.

Niagara County Sheriff, Deputy Brant directed ECMC medical staff to draw my blood though she had not seen or produced a Court Order. Deputy Brant seized my blood from my body and hospital without a Court Order.

Niagara County District Attorney, Brian Seaman has the duty to see that the evidence his Assistant District Attorney's use at Grand jury and through-out prosecution are in substantial compliance with N.Y. Statutes, the N.Y.



and the U.S. Constitution including not to maliciously prosecute a person with evidence that is in clear violation of the Fourth Amendment.

Niagara County Assistant District Attorney, Christine Savoia Savoia knew that Court Order was not read into the record in substantial compliance, was not prepared or signed on the night of August 24, 2022 when the blood was seized from my body and hospital. Savoia maliciously prosecuted me at the Grand Jury and through-out the past two years that have followed. Savoia has produced counterfeit Court Orders after the fact that the Court recognized as in the Courts words "depicts something different".

ECMC and its medical staff violated the N.Y. and U.S. Constitution, the NY VTL, and CPLR 4504 Physician, dentist, chiropractor and nurse privilege.

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- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

*See attached.*

### III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (*check all that apply*):

- ☒ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☐ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☐ Other (*explain*) \_\_\_\_\_

### IV. Statement of Claim

*See attached*

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

*They arose at ECMC on August 26, 2022*

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

*N/A*



## IV. Statement of Claim #1

on page 4 of 11

A. Judge Wojtaszek diverted from the regularity of the NYVTL 1194(3)(d)(4) statute and warrant requirement. On page 7 of the telephonic oral application Judge Wojtaszek: "OK. Now I generally ask that the Order be read back to me, um, before you sign it". CPL 690.40(3) requires: When a judge determines to issue a search warrant based upon oral application, the applicant therefor shall prepare the warrant in accordance with 690.45 and shall read it verbatim to the judge. That is not what Judge Wojtaszek decided to follow. Judge Wojtaszek fails to perform her duties impartially and diligently. 22 NYCRR 100.3. What did happen was Judge Wojtaszek said to Lt. Furey: "Is there any way for that to happen or can you call me back? Lt. Furey responds: "I would have to leave here and go to ECMC to do so. Judge Wojtaszek next asks A.D.A. Savoia: "Um do you have any thoughts on that Ms. Savoia".

Lt. Furey did not go to ECMC, prepare, or read back an Order to the Judge. NYVTL 1194(3)(d)(4) requires in relevant part: "When a judge or justice determines to issue an order to compel submission to a chemical test based on oral application, the applicant therefor shall prepare the Order in accordance with the instructions of the judge or justice. It must be (1)



Signed by the judge or justice if issued in person, or by the applicant if issued orally. Lt. Furey did not follow the law. After ending the telephonic oral application he communicated to his Deputy, Mindy Brant that they had an Order and to go ahead and have medical staff at ECMC draw my blood. The law is clearly established and requires the order/warrant to be in hand before seizing blood. Lt. Furey with 23 years of training and experience certainly knew what was required of the Fourth Amendment.

Deputy Mindy Brant directed ECMC hospital staff to draw my blood without my permission and without having produced, viewed, or shown an Order before seizing the blood and leaving the hospital with it. Deputy Brant had been trained in Law Enforcement and the law is clear regarding the NYVTL Statutes as well as the NY Constitution and the United States, including the Fourth Amendment.

Assistant District Attorney Savoia who was present during the telephonic oral application between Lt. Furey and Judge Wojtaszek had this to say in response to Judge Wojtaszek's question to her: "Um, do you have any thoughts on that Ms. Savoia?" Savoia responds saying: "I'm sorry Judge. You want him to read back \$ you the paper at the hospital?" (2)



Judge Wojtaszek responds: "Yeah well, what I have on a checklist is that the Order be read back to me to insure accuracy." Christine Savoia says: "Oh um, I mean I can read you the Order like filling in the blanks what would be the Order of the Court." Judge Wojtaszek says: "Yes if you could." NY VTL 1194(3)(d)(4) in relevant part reads: "In all cases the order shall include the name of the issuing judge or justice, the name of the applicant, and the date and time it was issued. What A.D.A. Savoia read into the call did none of that."

Niagara County Court Judge Ottaviano took over the case after Judge Wojtaszek recused over Ex-Parte Conversations between her law Clerk and ADA Savoia. On May 23, 2024 in Judge Ottaviano's Order and Decision on page 13 regarding the fraudulent order A.D.A. Savoia presented to the Court after her Ex-Parte Conversations, which included legal advice from Judge Wojtaszek's law, Holly Sloma that the Order being read into the call was not enough, Judge Ottaviano had this to say: "Traditionally, a document is not filed with a court via e-mail to the judges confidential law clerk nor is there a filing stamp on the order in this case). That version has applicants listed as A.D.A. Christine Savoia and Lt. Sean Furey. Neither document lists the time of the (3)



order's issuance or the date signed as required by VTL 1194(3)(d)(4).

Upon review of the transcript of the telephonic application and the actual call recording, it appears Defendant's Exhibit E is the order that more accurately reflects the order issued by Judge Wojtaszek and read back to her. When Judge Wojtaszek requested Lt. Furey read the order back, he was unable to do so citing the need to drive to ECMC. Upon Judge Wojtaszek's inquiry, ADA Savaria explains she is able to read back a form, filling in the blanks. Ultimately, the order prepared and filed was not a fill-in the blanks style form, but rather, an original word processing document that does not reflect what was read back to the judge. Defendant's E which was filed some time later, perhaps in November of 2023, appears to be more accurate, but still contains several inconsistencies with the order that was "read" to Judge Wojtaszek, including modifications to the name of the agency, inclusion or exclusion of subdivisions of statutory authority, inclusion of pronouns that were not read, and exclusion of the final paragraph in the written order. Though Lt. Furey indicated he recognized Defendant's E, he did not recall when he executed the document, and again, it contains neither a date signed nor a time issued. Neither party asked (4)



Lt. Furey to review the original order filed. The Court notes the lack of evidence in the record to show either order, or any order for that matter, was actually prepared or existed prior to or at the time of the blood draw it authorized.

Failure to properly prepare the order to compel is extreme.

On page 14 of Ottaviano's May 23, 2024 Order and Decision it reads: "The order is the operative document, and the statute uses mandatory verbiage like "shall" and "must" to describe its contents. Judge Wojtaszek required it be read back to her during the application process, and the recording depicts something different than what was ultimately prepared by the District Attorney's Office, regardless of the order referenced. Given that the law does not permit oral warrants, only oral applications, failure to prepare an accurate order violates the statutory framework of VTL 1194(3).

Given the violation of the order to compel procedure contained in VTL 1194(3), the Court must determine whether, despite the errors above, the chemical test evidence is admissible under an alternate theory offered by the People. The statutory language permits such evidence to be obtained by consent, a court order, or what is commonly referred to as implied consent. (5) Consent is not offered as a basis, and the order



to compel contained fatal defects so the Court now analyzes the circumstances in light of implied consent."

It is this Plaintiff's position as well as the United States Supreme Court that all cases involving implied consent statutes and refusals, must be viewed through the lens of *Birchfield v. North Dakota*, *Missouri v. McNeely*, *Mitchell v. Wisconsin*

When there is time to secure a warrant Law Enforcement must do so. In this case at bar Law Enforcement faced no exigency and in fact did obtain an order however they decided not to follow the strict adherence of the Statute of VTL 1194 or honor the Fourth Amendment.

In effort to help the local politics along, as well as cover her own departure from the VTL and CPL mandates Judge Wojtaszek on September 14, 2022 issued a search warrant for the ECMC Hospital blood that was taken upon my arrival for emergency. By September 21, 2022 email conversations between Judge Wojtaszek's confidential law clerk Holly Sloma who sits beside her at the bench and ADA Savoia which Sloma tells Savoia "No, I'm not saying it being read into the call is enough, certainly recognized and show they knew there were problems with the Order. Recall (6)



Judge Wojtaszek during the August 26, 2022 telephonic oral application diverted from the regularity of the order/search warrant process. CPL 690.40(3) requires "When a judge determines to issue a search warrant based upon oral application the applicant therefore shall prepare the warrant in accordance with CPL 690.45 and shall read it verbatim to the judge. Judge Wojtaszek knew by September 2, 2022 there unquestionably were fatal defects with the Order she granted on August 26, 2022 and to help law Enforcement along she issued a Search warrant on September 14, 2022 not being neutral or detached.

The U.S. Const, 4th Amend; N.Y. Const, art 1 § 12 - uphold the right to have a neutral and detached magistrate "Johnson v. United States; 333 US 60, 14 68 Sct 367 92 LEd (1948) sign the warrant.

The Ex-Parte conversations that are prohibited between the ADA and Judges law clerk prejudiced this Plaintiff and given the foreknowledge of such the Court did not act impartially.

November 5, 2024

Respectfully Submitted,

Eric S. Gardner

Eric S. Gardner

PO BOX 496  
Hackensack, N.J. 07095

(17)

I.V. Statement of Claim #2

Medical Staff at ECMC drew my blood without viewing a Court Order. The ECMC Specimen Release Form has Court Order crossed off and Implied Consent handwritten in its place. Medical Staff should never go around drawing a patient's blood without first demanding to see the Court Order from Law Enforcement. The Unconstitutional taking of my blood occurred at approximate 4:07 AM on August 24, 2022 at ECMC.

The Niagara County Assistant District Attorney Christine Savoia has listed in her discovery Mary Bridget Reilly 3/27/1974, Emilee Russell 12/15/1994, and Maria C. Kaisler 11/05/1989 as the medical staff that drew and witnessed the taking of my blood without a Court Order. I am listing and filing suit against each one of them as defendants, in addition ECMC is also a defendant. ECMC is liable because it failed to oversee that its staff was trained and trustworthy not to take someone's blood based on hearsay, and that they failed to demand to see the Court Order.

November 5, 2024

Respectfully Submitted

Eric S. Gardner

Eric S. Gardner

P.O. Box 496, Lockport, N.Y. 14095

①

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- C. What date and approximate time did the events giving rise to your claim(s) occur?

August 26, 2022 400 AM, September 14, 2022

- D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

My Statement of Claims explain this.

#### V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Violation of Amendment 4 (Unreasonable searches and seizures.  
The right of the people to be secure in their persons, houses, papers  
and effects, against unreasonable searches and seizures.

#### VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

I am suing for \$777,000 in claim No. 1  
and in Claim No. 2, also for \$777,000



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## VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☐ Yes

☒ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes

☒ No

☐ Do not know

If yes, which claim(s)?

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- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☐ Yes

☒ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☒ No

- E. If you did file a grievance:

1. Where did you file the grievance?

NIA

2. What did you claim in your grievance?

NIA

3. What was the result, if any?

NIA

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

NIA

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F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

N/A

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

N/A

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

N/A

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

N/A



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- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) N/A

Defendant(s) \_\_\_\_\_

2. Court (if federal court, name the district; if state court, name the county and State)

N/A

3. Docket or index number

N/A

4. Name of Judge assigned to your case

N/A

5. Approximate date of filing lawsuit

N/A

6. Is the case still pending?

☐ Yes

☐ No

N/A

If no, give the approximate date of disposition. \_\_\_\_\_

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

N/A

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**IX. Certification and Closing**

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

**A. For Parties Without an Attorney**

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing:

November 5, 2024

Signature of Plaintiff

Eric Gardner

Printed Name of Plaintiff

Eric Gardner

Prison Identification #

449

Prison Address

P.O. BOX 496Lockport

City

N.Y.

State

14095

Zip Code

**B. For Attorneys**

Date of signing:

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address



Dear Clerk of the Court,

November 5, 2024

I request that this Civil Lawsuit is filed  
and that you provide me a receipt / Time Stamp  
of such along with the Original documents or  
in the alternative a copy of the same.

Respectfully Submitted,

Eric S. Gardner

Eric S. Gardner

P.O. BOX 496

Lockport, N.Y. 14095

**Retail**



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95 Delaware Avenue  
K of the U-S District Court  
United States Courthouse  
Buffalo, N.Y., 14202 -



Eric Gardner

P.O. Box 496

Lockport, N.Y. 14095

Cler

F

24 CV 1094

JS 44 (Rev. 08/18)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<b>I. (a) PLAINTIFFS</b> <u>Eric S. Gardner</u>  <b>(b) County of Residence of First Listed Plaintiff</b> <u>Niagara</u> <small>(EXCEPT IN U.S. PLAINTIFF CASES)</small>  <b>(c) Attorneys (Firm Name, Address, and Telephone Number)</b>	<b>DEFENDANTS</b> <u>Niagara County Sheriff Lt. Sean Foley,</u> <u>Deputy Mindy Bratt, Niagara County District Attorney,</u> <u>Drion Seamen, Assistant District Attorney Christine Savina</u> <b>County of Residence of First Listed Defendant</b> <u>Niagara</u> <small>(IN U.S. PLAINTIFF CASES ONLY)</small>  <b>NOTE:</b> IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.  <b>Attorneys (If Known)</b>
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<b>II. BASIS OF JURISDICTION</b> <small>(Place an "X" in One Box Only)</small>  <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question <small>(U.S. Government Not a Party)</small>  <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity <small>(Indicate Citizenship of Parties in Item III)</small>	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> <small>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</small> <table style="width:100%; border-collapse: collapse;"> <tr> <th style="text-align: left;"><small>(For Diversity Cases Only)</small></th> <th>PTF</th> <th>DEF</th> <th></th> <th>PTF</th> <th>DEF</th> </tr> <tr> <td>Citizen of This State</td> <td><input checked="" type="checkbox"/> 1</td> <td><input checked="" type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>	<small>(For Diversity Cases Only)</small>	PTF	DEF		PTF	DEF	Citizen of This State	<input checked="" type="checkbox"/> 1	<input checked="" type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
<small>(For Diversity Cases Only)</small>	PTF	DEF		PTF	DEF																				
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

<b>IV. NATURE OF SUIT</b> <small>(Place an "X" in One Box Only)</small>				<small>Click here for: Nature of Suit Code Descriptions.</small>	
<b>CONTRACT</b>	<b>TORTS</b>	<b>FORFEITURE/PENALTY</b>	<b>BANKRUPTCY</b>	<b>PROPERTY RIGHTS</b>	<b>OTHER STATUTES</b>
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other  <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b>	<b>CIVIL RIGHTS</b>	<b>PRISONER PETITIONS</b>	<b>IMMIGRATION</b>	<b>FEDERAL TAX SUITS</b>	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act  <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

<b>V. ORIGIN</b> <small>(Place an "X" in One Box Only)</small>							
<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify)	<input type="checkbox"/> 6 Multidistrict Litigation - Transfer	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File	

<b>VI. CAUSE OF ACTION</b>	Cite the U.S. Civil Statute under which you are filing <small>(Do not cite jurisdictional statutes unless diversity):</small> <u>42 U.S.C. § 1983</u>	
	Brief description of cause: <u>Violation of Plaintiff's Fourth Amendment</u>	

<b>VII. REQUESTED IN COMPLAINT:</b>	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.	<b>DEMAND \$</b>	CHECK YES only if demanded in complaint: <b>JURY DEMAND:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No
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<b>VIII. RELATED CASE(S) IF ANY</b>	<small>(See Instructions):</small>	<b>JUDGE</b> <u>Ottaviano</u>	<b>DOCKET NUMBER</b> <u>2022-245</u>
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<b>DATE</b> <u>November 5, 2024</u>	<b>SIGNATURE OF ATTORNEY OF RECORD</b> <u>Eric S. Gardner</u>
<b>FOR OFFICE USE ONLY</b>	

RECEIPT #	AMOUNT	APPLYING IFP	JUDGE	MAG. JUDGE
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